

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

MELANIE MEISTER, Mother and Natural)
parent of minor S.R., minor A.R., minor A.C.)

Plaintiff,)

v.)

Case No. 09-2544-EFM

KANSAS CITY, KANSAS HOUSING)
AUTHORITY)

Defendant.)

ORDER

This matter comes before the court on the motion of the *pro se* plaintiff, Melanie Meister, asking for reconsideration of an earlier order denying her motion to appoint counsel. (**doc. 13**). Plaintiff's instant motion, although titled "OBJECTION" and docketed by the clerk as a motion for review, asks the undersigned to reconsider an earlier order. The court has therefore construed plaintiff's motion as a motion for reconsideration under D. Kan. Rule 7.3(b). For the reasons set forth below, plaintiff's motion is denied.

Plaintiff originally requested appointment of counsel on October 21, 2009 (doc. 5). That same day, the court denied plaintiff's request and encouraged plaintiff to contact the Lawyer Referral Service (*see* doc. 7). In the instant motion, plaintiff explains that she previously spoke with one attorney referred to her by the Lawyer Referral Service but could not afford to hire him.

Under D. Kan. Rule 7.3(b), a motion to reconsider must be based on (1) an intervening

change in controlling law, (2) the availability of new evidence, or (3) the need to correct clear error or prevent manifest injustice. A motion to reconsider is appropriate if the court has obviously misapprehended a party's position, the facts, or applicable law or if the party produces new evidence that could not have been obtained through the exercise of due diligence.¹ None of these factors are relevant in this case.

As noted in the original order denying plaintiff's request to appoint counsel, the court has considered plaintiff's application and the information she has presented regarding her efforts to find an attorney to represent her in this matter. The court remains unconvinced that plaintiff cannot adequately represent herself in this case. Plaintiff's claims do not involve complicated facts. The court remains confident that plaintiff is capable of preparing and presenting her case *pro se* and that the district court judge will be able to discern the applicable law. Accordingly, plaintiff's motion for reconsideration is denied.

Plaintiff is hereby informed that, within ten days after she is served with a copy of this order, she may, pursuant to Fed. R. Civ. P. 72 and D. Kan. Rule 72.1.4(a), file a motion requesting that U.S. District Judge Eric Melgren review this order. Plaintiff must file any objections within the ten-day period if she wants to have appellate review of this order. If no objections are timely filed, no appellate review will be allowed by any court.

Copies of this order shall be served electronically upon all counsel of record and shall be sent by regular and certified mail to the *pro se* plaintiff.

¹*Major v. Benton*, 647 F.2d 110, 112 (10th Cir. 1981); *Voelkel v. General Motors Corp.*, 846 F. Supp. 1482, 1483 (D. Kan. 1994).

Dated this 5th day of November, 2009, at Kansas City, Kansas.

s/ James P. O'Hara
James P. O'Hara
U.S. Magistrate Judge